

Serial No. 09/402,517

PATENT
RCA 88,469

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicants(s) : JAMES EDWIN HAILEY ET AL.
Serial No. : 09/402,517
Filed : OCTOBER 5, 1999
For : SYSTEM FOR AUTOMATICALLY FORMING A
PROGRAM GUIDE FROM INFORMATION DERIVED
FROM MULTIPLE SOURCES
Examiner : H. LONSBERRY
Art Unit : 2611

APPEAL BRIEF

May It Please The Honorable Board:

Sir:

The Applicants appeal the final rejection of Claims 1 to 20, of the above-identified application in the Final Rejection mailed December 24, 2003. The \$330.00 fee for filing this Brief is to be charged to Deposit Account No. 07-0832.

Applicants also request a three-month extension for reply for the filing of this appeal brief from June 16, 2004, the due date for which this appeal brief was due. The \$950.00 fee for the extension is to be charged to Deposit Account No. 07-0832.

Please charge any additional fee or credit any overpayment to the above-identified Deposit Account.

Applicants do not request an oral hearing.

REAL PARTY IN INTEREST

The real party in interest, the Assignee, is:
Thomson Licensing S.A., 46 quai Alphonse La Gallo, Boulogne Billancourt,
92100 FRANCE

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

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STATUS OF THE CLAIMS

Claims 1 to 20 are rejected.

Claims 1 to 20 are appealed.

STATUS OF AMENDMENTS

All amendments were entered and are reflected in the claims included in the Appendix.

SUMMARY OF CLAIMED MATTER

Independent Claim 1 is a method for a video decoder system that allows such a decoder to form a composite electronic program guide from multiple sources. The process begins with the retrieval of access data from a memory (specification, page 11, lines 6-20, and in other places) where the access data is used to initiate a communication with a second source external to the decoder using such access data independently of a user command (specification, page 26, lines 9-11, and in other places). Program guide information is received from the accessed second source (specification, page 10, lines 3-28, page 26, lines 14-25, and in other places) and is incorporated into a program guide for display with other program guide information (specification, page 26, lines 25-29, and in other places).

Independent Claim 11 is a method for a video decoder system to receive program guide information from a first source for incorporation into a program guide. The method uses access data from a memory of the decoder (specification, page 11, lines 6-20, and in other places) where such access data is used to initiate communications with a peripheral device (which is used to communicate with the first source) independently of a user command (specification, page 26, lines 9-11, and in other places). The communication with the peripheral device uses a communication protocol determined from the access data (specification, page 26, lines 14-18, and in other places). Program guide information is received from the peripheral device (specification, page 10, lines 3-28, page 26, lines 14-25, and in other places) and is incorporated into a program guide for display (specification, page 26, lines 25-29, and in other places).

Independent Claim 17 is a method for a video decoder to receive information from a first source through a peripheral device. The method has the decoder retrieving request access data from a memory of the decoder (specification, page 11, lines 6-20, and in other places). The decoder then automatically communicates with the peripheral device in response to pre-established conditions such as the powering on of the decoder or a change in the number of peripheral devices attached to the decoder (specification page

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25, line 31 to page 26, line 13). Program guide information is retrieved from the peripheral device through the Internet using access data (specification, page 10, lines 3-28, page 26, lines 14-25, and other places) where the retrieved program guide information is incorporated into a program guide for display (specification, page 26, lines 25-29, and in other places).

STATEMENT OF GROUNDS OF REJECTION

Claims 1-16 are rejected under 35 U.S.C. §103(a) over U.S. Patent 5,883,677 to Hofmann in view of U.S. Patent 6,052,556 to Sampsell.

Claims 17 and 18 are rejected under 35 U.S.C. §103(a) over U.S. Patent 5,883,677 to Hofmann in view of U.S. Patent 6,052,556 to Sampsell and in further view of U.S. Patent 5,991,799 to Yen.

Claims 19-20 are rejected under 35 U.S.C. §103(a) over U.S. Patent 5,883,677 to Hofmann in view of U.S. Patent 6,052,556 to Sampsell.

ARGUMENTS

THE 35 U.S.C. § 103 REJECTION OF CLAIMS 1 to 16

Reversal of the Final Rejection ("hereinafter termed rejection") of Claims 1 to 16 under 35 U.S.C. §103(a) over U.S. Patent 5,883,677 to Hofmann in view of U.S. Patent 6,052,556 to Sampsell is requested. The rejection makes the following crucial errors.

Claim 1 claims a step of "retrieving access data" from memory and, "initiating communication automatically between said decoder and a second source external to said video decoder using said access data; said communication being initiated by said decoder independently of a user command associated with a program or service selection." These claimed features are neither disclosed nor suggested in Hofmann or Sampsell, alone or in combination.

In the rejection, the Examiner states that in Hofmann, "the merged database knows the data structure of the EPG information as well as the protocol used...Hofmann must retrieve access data from memory, in order to know where to receive the initial program information, as well as the address of the merged database of a CEBus network to transmit the program information to the database."

The operation of Hofmann in order to receive EPG information uses a device such as gateway 110, telco interface 312, or coax cable bus node 322

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to receive a data signal and to process such a signal into a format compatible with the CEBus format. It is noted that the CEBus structure is implemented over a CXBus network, "to facilitate the exchange of data and control information over the coax medium within a home," (Hofmann, col. 4, lines 3-11). Applicants note that the operation of the CEBus network is within a home as is not used as a means of communication for, "initiating communication automatically between said decoder and a second source external to said video decoder using said access data."

The Examiner in the Final Rejection acknowledges this deficiency in Hofmann (Final Rejection, page 4, line 18 to page 5, line 4) and cites to Sampsell as a television and consumer device network that, "utilizes IEEE 1394, USB, and CEBUS to interconnect a number of diverse devices." Furthermore, the Examiner then writes that "because Sampsell makes use of the USB standard. A USB equipped device constant polls devices on the network, thus discovering when a new device is added to the network, and then enables communications with that device." Finally, the Examiner takes official notice that "automatic synchronization of data is well know in the art (for example synchronizing email between a laptop and a home computer).

Applicants have not claimed a step of "automatic synchronization" as suggested by the Examiner in Claim 1, but rather a step of "initiating communication between said decoder and a second source external to said video decoder using said access data; said communication being initiated by said decoder independently of a user command." The synchronization that the Examiner refers to in Sampsell is the synchronization of peripheral devices connected to a computer. For example, the USB standard is used to connect a peripheral device to a computer using a serial bus. The polling function of the USB standard is used to recognize new devices that are connected to the computer. The polling function of peripheral devices in Sampsell in view of the USB standard however is not the same thing as using a gateway device 110 or telco interface 312 to communicate with a device over a cable or telephone line, as described in Hofmann.

The communication with a device over a cable or telephone line in Hofmann is not the same as recognizing a peripheral device connected to a computer using the USB bus standard, in the manner suggested by the Examiner. Therefore, even if one would apply the polling function of recognizing new device of USB with the system of Hofmann; Hofmann would only recognize that a gateway device 110, telco interface 312, or a coax cable bus node 322 was physically connected to the system of Hofmann. There is no disclosure or suggestion in Hofmann and Sampsell, alone or in combination, that the recognition of a physically connected device would then

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"initiating communication automatically between said decoder and a second source external to said video decoder using said access data" where upon such a communication, program guide information is retrieved from the second source (as claimed in step C of Claim 1).

In order to anticipate the claimed method listed above, the combined system of Hofmann and Sampsell would then require the teachings of the present invention to initiate a second communication by using the claimed access data "to communicate with "a second source external to said video decoder" as in Claim 1. This use of access data is neither suggested nor disclosed in Hofmann and Sampsell, alone or in combination, nor is the Official Notice taken by the Examiner support this claimed step, either.

For the reasons given above, Claim 1 is believed to overcome the rejection under 35 U.S.C. § 103(a), and Applicants request that the rejection of this claim be withdrawn. Rejected independent Claim 11 is patentable for substantially the same reasons given above for Claim 1. Additionally, dependent Claims 2-10, and Claims 12-16 are patentable as these claims depend on Independent Claims 1 and 11, respectively. Applicants request that the rejection of Claims 2-16 be withdrawn

THE 35 U.S.C. § 103 REJECTION OF CLAIMS 17 to 20

THE 35 U.S.C. § 103 REJECTION OF CLAIMS 17 and 18

Reversal of the rejection of Claims 17 and 18 under 35 U.S.C. §103(a) over U.S. Patent 5,883,677 to Hofmann in view of U.S. Patent 6,052,556 to Sampsell in further view of U.S. Patent 5,991,799 to Yen is requested. The rejection makes the following crucial errors.

Claim 17 claims the steps of "retrieving access data from memory, wherein said access data comprises request access data" from memory, "retrieving program guide information from said peripheral device", and "Incorporating said program guide information provided by said first source and peripheral device into a program guide for display, wherein said first source is accessed via the Internet using said request access data". These claimed features are neither disclosed nor suggested in Hofmann, Sampsell, or Yen, alone or in combination.

The communication with a device over a cable or telephone line in Hofmann is not the same as recognizing a peripheral device connected to a computer using the USB bus standard, in the manner suggested by the

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Examiner. Therefore, even if one would apply the polling function of recognizing new device of USB with the system of Hofmann; Hofmann would only recognize that a gateway device 110, telco interface 312, or a coax cable bus node 322 was physically connected to the system of Hofmann. There is no disclosure or suggestion in Hofmann, Sampsell, and Yen, alone or in combination, that the recognition of a physically connected device would then "retrieve program guide information from said peripheral device" or receive program guide information from a first source "wherein said first source is accessed via the Internet using said request access data".

Furthermore, the operation of the USB standard does not infer how once connected, a peripheral device would be used to "retrieve program guide information provided by a first source", even if one would use the teachings of Yen. Yen describes the operation of a system that obtaining program guide information from a source through an Internet access point 112. Hence, by combining the systems of Hofmann, Sampsell, and Yen in the manner suggested by the Examiner, a peripheral device connected via USB to a computer would automatically know to use request access data to "direct a computer to a location of stored data" (Examiner's Official Notice in the rejection). The operation of a USB device being recognized by the device that the USB device is connected to is unrelated and does not suggest that such a USB device would also use request access data to access information on the Internet (in the manner suggested by the Examiner) unless the Examiner applies the teachings of the present invention to modify the cited references.

For the reasons given above for Claims 1 and 17, Claim 17 is believed to overcome the rejection under 35 U.S.C. § 103(a), and Applicants request that the rejection of this claim be withdrawn. Additionally, dependent Claim 18 is patentable as this claim depends on Independent Claim 17. Applicants request that the rejection of Claim 18 be withdrawn

THE 35 U.S.C. § 103 REJECTION OF CLAIMS 19 and 20

Reversal of the rejection of Claims 19 and 20 under 35 U.S.C. §103(a) over U.S. Patent 5,883,677 to Hofmann in view of U.S. Patent 6,052,556 to Sampsell is requested. The rejection makes the following crucial errors.

For the reasons given above for Claims 1 and 17, Claims 19 and 20 are believed to overcome the rejection under 35 U.S.C. § 103(a), and Applicants request that the rejection of this claims be withdrawn. Additionally, Claims 19 and 20 are patentable as these claim depend on Independent

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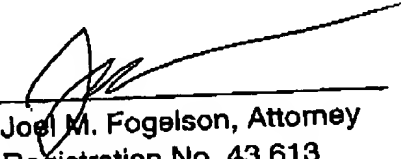
Claim 17. Applicants request that the rejection of Claim 19 and 20 be withdrawn

Accordingly, the Applicants submit that the application is in condition for allowance.

Respectfully submitted,

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APPENDIX I
APPEALED CLAIMS

WHAT IS CLAIMED IS:

1. (previously presented) In a video decoder system for receiving program guide information from a first source, a method for forming a composite program guide for program content available from a plurality of sources, comprising the steps of:
 - a) retrieving access data from memory;
 - b) initiating communication automatically between said decoder and a second source external to said video decoder using said access data; said communication being initiated by said decoder independently of a user command associated with a program or service selection;
 - c) retrieving program guide information from said second source; and
 - d) incorporating said program guide information provided by said first and second sources into a program guide for display.
2. (original) A method according to claim 1 wherein, in step (b) said communication is initiated on a repetitive basis in response to preprogrammed instructions of a processor.
3. (original) A method according to claim 1 wherein, in step (b) said communication is initiated in response on a repetitive basis in response to preprogrammed instructions of a processor.
4. (original) A method according to claim 1 wherein, in step (b) said communication is initiated in response to at least one of: a) power-up of said decoder, and b) power-up of an attached peripheral device.

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5. (original) A method according to claim 1 further including the step of detecting a change in number or type of peripheral devices connected to said decoder.
6. (original) A method according to claim 5 wherein in step (b) said communication is initiated in response to said change.
7. (original) A method according to claim 5 wherein said step of initiating communication is performed on a repetitive basis in response to preprogrammed processor instruction for said detecting of said change.
8. (original) A method according to claim 5 wherein said change is detected in response to configuration data identifying a peripheral device attached to said decoder and provided from one of: a) User data entry, and b) said received program guide information.
9. (original) A method according to claim 1 wherein said step of initiating communication is performed in response to pre-stored configuration data identifying a peripheral device attached to said decoder.
10. (original) A method according to claim 1 wherein said first source is one of a) a satellite broadcast source, b) a terrestrial broadcast source, and c) a cable broadcast source, and said second source is one of a) a storage source, b) an Internet source, c) a computer network source, and d) a source accessible via telephone lines.

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11. (previously presented) In a video decoder system for receiving program guide information from a first source, a method for forming a program guide for program content available from a plurality of sources, comprising the steps of:

- a) retrieving access data from memory;
- b) automatically identifying a peripheral device attached to said decoder, said identification being initiated by said decoder independently of a user command associated with a program or service selection;
- c) initiating communication between said decoder and said peripheral device attached to said decoder using a communication protocol determined from said access data;
- d) retrieving program guide information from said peripheral device; and
- e) incorporating said program guide information provided by said first source and peripheral device into a program guide for display.

12. (original) A method according to claim 11 wherein, in step (b) said peripheral device is identified from configuration information derived from one of: a) pre-stored data in internal memory of said decoder, b) data entered by a User, and c) said program guide information received from said first source.

13. (original) A method according to claim 11 further including the step of
polling via a decoder communication link to determine whether said peripheral device is attached to said decoder link.

14. (original) A method according to claim 11 further including the step of
identifying a change in number or type of peripheral devices connected to said decoder.

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15. (original) A method according to claim 14 wherein in step (c) said communication is initiated in response to said change.

16. (original) A method according to claim 11 wherein said peripheral device is one of a) a storage device, b) a device accessed via the Internet, c) a satellite, terrestrial or cable broadcasting device, d) a device accessible via a computer network and e) a device accessible via telephone lines.

17. (previously presented) In a video decoder system for receiving program guide information from a first source, a method for forming a program guide for program content available from a plurality of sources, comprising the steps of:

a) retrieving access data from memory, wherein said access data comprises request access data;

b) automatically initiating communication between said decoder and a peripheral device attached to said decoder in response to at least one of the following conditions: i) power-up of said decoder, ii) power-up of said attached peripheral device, iii) repetitive pre-programmed command from a decoder processor, iv) change in number of attached peripheral devices, and v) change in type of attached peripheral devices;

c) retrieving program guide information from said peripheral device; and

d) incorporating said program guide information provided by said first source and peripheral device into a program guide for display, wherein said first source is accessed via the Internet using said request access data.

18. (previously presented) A method according to claim 17 wherein said request access data comprises a uniform resource locator.

19. (previously presented) A method according to claim 1, wherein said access data comprises request access data used for requesting EPG data from said second source and conditional access data for authorizing access to said second source.

20. (previously presented) A method according to claim 11, wherein said access data comprises request access data used for requesting EPG

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data from said peripheral device and conditional access data for authorizing
access to said peripheral device.

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APPENDIX II
EVIDENCE RELIED ON

Hofmann, U.S. Patent # 5,883,677, issued March 16, 1999

Yen et al., U.S. Patent # 5,991,799, issued November 23, 1999

Sampsell, U.S. Patent # 6,052,556, issued April 18, 2000